



DEPARTMENT OF EDUCATION

34 CFR Chapter II

[Docket ID ED-2013-OESE-0159]

Proposed Priorities, Requirement, and Definitions--

Innovative Approaches to Literacy (IAL) Program

[CFDA Number: 84.215G]

AGENCY: Office of Elementary and Secondary Education,
Department of Education (Department).

ACTION: Proposed priorities, requirement, and definitions.

SUMMARY: The Assistant Secretary for Elementary and Secondary Education proposes priorities, a requirement, and definitions under the IAL program. The Assistant Secretary may use the priorities, requirement, and definitions for competitions in fiscal year (FY) 2014 and later years. We take this action to ensure IAL projects will be supported, at a minimum, by evidence of strong theory, and to focus Federal financial assistance on projects that serve rural local educational agencies (LEAs).

DATES: We must receive your comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- Federal eRulemaking Portal: Go to www.regulations.gov to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under "Are you new to the site?"

- Postal Mail, Commercial Delivery, or Hand Delivery: If you mail or deliver your comments about these proposed regulations, address them to David Moore Miller, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E241, Washington, DC 20202-6200.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at www.regulations.gov. Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Melvin Graham, U.S.

Department of Education, 400 Maryland Avenue, SW., room 3E334, Washington, DC 20202-6200. Telephone: (202) 260-8268 or by e-mail: melvin.graham@ed.gov.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding this notice. To ensure that your comments have maximum effect in developing the notice of final priorities, requirement, and definitions, we urge you to identify clearly the specific proposed priority, requirement, or definition that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from these proposed priorities, requirement, and definitions. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about these proposed regulations by

accessing Regulations.gov. You may also inspect the comments in person in room 3E241 400 Maryland Avenue, SW, Washington, DC between 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays. Please contact the person listed under FOR FURTHER INFORMATION CONTACT. Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under FOR FURTHER INFORMATION CONTACT.

Purpose of Program: The purpose of the IAL program is to support high-quality projects designed to develop and improve literacy skills for children and students from birth through 12th grade within the attendance boundaries of high-need LEAs and schools.

Program Authority: 20 U.S.C. 7243-7243b.

PROPOSED PRIORITIES:

This notice contains two proposed priorities.

Proposed Priority 1--High-quality plan for innovative approaches to literacy that include book distribution,

childhood literacy activities, or both, and that is supported, at a minimum, by evidence of strong theory (as defined in 34 CFR 77.1(c)).

Background:

We have developed a priority that describes the components of a high-quality plan and the level of evidence of effectiveness most appropriate for the IAL program.

The components of a high-quality plan include a description of how the activity improves literacy in early childhood, improves students' reading ability, motivates older children to read, or teaches children and students to read. The plan must also include a description of the populations to be served, key goals and activities, the rationale for the activities chosen, timeline for the project, parties responsible for implementing the project, and the credibility of the plan.

The Secretary published final regulations in the Federal Register on August 13, 2013 (78 FR 49338), that include a description of four levels of evidence for the Department to use in determining the potential effectiveness of proposed projects.

Considering that the new regulations were established, in part, to provide incentives and opportunities to build the body of evidence of effectiveness in education, and

considering the wide range of new and innovative approaches possible under the IAL program, we have determined that the most appropriate level of evidence for the IAL program is strong theory.

While there exists evidence in the field to support a higher level of evidence for the IAL program, we selected strong theory in order to broaden the evidence base by supporting innovative and new ideas, as well as to empower applicants to propose activities and approaches that have shown evidence of promise or effectiveness anecdotally or in theory, but that have not yet been included in a published research study or not met the requirements of a higher level of evidence.

The final regulations also note the importance of applicants proposing project evaluations that increase the level of evidence of the proposed project's effectiveness. In order to provide opportunities for applicants to build the body of evidence of effectiveness in education, we will include a related selection criterion that encourages applicants to incorporate evaluation designs that will, if well-implemented, produce evidence of promise for future projects. Evidence of promise is a more rigorous level of evidence than strong theory.

Proposed Priority:

To meet this priority, applicants must submit a plan that is supported by evidence of strong theory, including a rationale for the proposed process, product, strategy, or practice and a corresponding logic model (as defined in 34 CFR 77.1(c)).

The applicant must submit a plan with the following information:

(a) a description of the proposed book distribution, childhood literacy activities, or both, that are designed to improve the literacy skills of children and students by one or more of the following—

(1) promoting early literacy and preparing young children to read;

(2) developing and improving students' reading ability;

(3) motivating older children to read; and

(4) teaching children and students to read.

(b) the age or grade spans of children and students from birth through 12th grade to be served within the attendance boundaries of high-need LEAs (as defined in this notice);

(c) a detailed description of the key goals, the activities to be undertaken, the rationale for those activities, the timeline, the parties responsible for

implementing the activities, and the credibility of the plan (as judged, in part, by the information submitted as evidence of strong theory); and

(d)(i) a description of how the proposed project is supported by strong theory; and (ii) the corresponding logic model (as defined in 34 CFR 77.1(c)).

Proposed Priority 2--Serving Rural LEAs

Background:

Rural school districts often lack the personnel and resources needed to compete effectively for Federal competitive grants. Therefore, we wish to establish a priority to better enable eligible rural applicants to compete effectively for IAL funds.

Proposed Priority:

To meet this priority, an applicant must propose a project designed to provide high-quality literacy programming, or distribute books, or both, to students served by a rural LEA (as defined in this notice).

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the Federal Register. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

PROPOSED REQUIREMENT:

Background:

The IAL program is guided by the Senate report that accompanied the Consolidated Appropriations Act, 2014 (S. Rep. no. 113-71, at 173 (2013)). According to that report, funds made available under the IAL program are for competitive awards to national not-for-profit organizations (NNPs) or school libraries.

School libraries generally do not have the capacity to manage Federal grants independently of the schools and districts they serve. We believe LEAs are better equipped to compete for, and meet the requirements of, Federal grants than are school libraries. Therefore, school libraries should coordinate with their LEAs in competing for IAL funds.

Proposed Requirement:

The Assistant Secretary proposes the following requirement for this program. We may apply this requirement in any year in which this program is in effect.

Eligibility: To be considered for an award under this competition, an applicant must be one of the following:

(1) a high-need LEA (as defined in this notice); (2) an NNP (as defined in this notice) that serves children and students within the attendance boundaries of one or more high-need LEAs; (3) a consortium of NNPs that serve children and students within the attendance boundaries of one or more high-need LEAs; (4) a consortium of high-need LEAs; or (5) a consortium of one or more high-need LEAs and one or more NNPs that serve children and students within the attendance boundaries of one or more high-need LEAs.

PROPOSED DEFINITIONS:

Background:

Six important terms associated with this program are not defined in the authorizing statute, applicable regulations, or EDGAR.

Proposed Definitions:

The Assistant Secretary proposes the following definitions for this program. We may apply one or more of these definitions in any year in which this program is in effect.

College- and career-ready standards means content standards for kindergarten through 12th grade that build towards college and career readiness by the time of high school graduation. A State's college- and career-ready standards must be either (1) standards that are common to a significant number of States; or (2) standards that are approved by a State network of institutions of higher education, which must certify that students who meet the standards will not need remedial course work at the postsecondary level.

Comprehensive statewide literacy plan means a plan (which may be a component or modification of the plan submitted under the Striving Readers Comprehensive Literacy formula grant program, CFDA 84.371B) that addresses the literacy and language needs of children from birth through 12th grade, including English Learners and students with

disabilities; aligns literacy policies, resources, and practices; contains clear instructional goals; and sets high expectations for all students and student subgroups.

High-need local educational agency (High-need LEA) means an LEA, including a charter school or State-administered school that is considered an LEA under State law, in which at least 25 percent of the students aged 0-17 in the geographic area served by the LEA (or, in the case of a charter school that is an LEA, at least 25 percent of the students enrolled in the school) are from families with incomes below the poverty line based on the most recent satisfactory data available from the U.S. Census Bureau at the time a notice inviting applications is published.

National not-for-profit (NNP) organization means an agency, organization, or institution owned and operated by one or more corporations or associations whose net earnings do not benefit, and cannot lawfully benefit, any private shareholder or entity. In addition, it means, for the purposes of this program, an organization of national scope that is supported by staff or affiliates at the State and local levels, who may include volunteers, and that has a demonstrated history of effectively developing and implementing literacy activities. Note: a local affiliate of an NNP does not meet the definition of NNP. Only a

national agency, organization, or institution is eligible to apply as an NNP.

Rural local educational agency (Rural LEA) means an LEA that is eligible under the Small Rural School Achievement program (SRSA) or the Rural and Low-Income School (RLIS) program authorized under Title VI, Part B of the ESEA at the time of application.

Universal design for learning (UDL) means a scientifically valid framework for guiding educational practice that (i) provides flexibility in the ways information is presented, in the ways students respond or demonstrate knowledge and skills, and in the ways students are engaged; and (ii) reduces barriers in instruction, provides appropriate accommodations, supports, and challenges, and maintains high achievement expectations for all students, including students with disabilities and students who are English Learners.

Final Priorities, Requirement, and Definitions:

We will announce the final priorities, requirement, and definitions in a notice in the Federal Register. We will determine the final priorities, requirement, and definitions after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional priorities,

requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does not solicit applications. In any year in which we choose to use one or more of these priorities, requirement, and definitions we invite applications through a notice in the Federal Register.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this proposed regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may--

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities in a material way (also referred to as an "economically significant" rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this proposed regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency--

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account--among other things and to the extent practicable--the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives--such as user fees or marketable permits--to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

We are issuing these proposed priorities, requirement, and definitions only on a reasoned determination that their benefits would justify their costs. In choosing among

alternative regulatory approaches, we selected those approaches that would maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action would not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under FOR FURTHER INFORMATION CONTACT.

Electronic Access to This Document: The official version of this document is the document published in the Federal Register. Free Internet access to the official edition of the Federal Register and the Code of Federal Regulations is available via the Federal Digital System at: www.gpo.gov/fdsys. At this site you can view this document, as well as all other documents of this Department published in the Federal Register, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the Federal Register by using the article

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Dated: February 24, 2014.

Deborah Delisle,
Assistant Secretary for Elementary
and Secondary Education.

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